

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY JAMES MYERS,

Petitioner,

v.

BRYAN D. PHILLIPS, et al.,

Respondents.

No. 1:23-cv-00409-JLT-SAB (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, GRANTING IN
PART RESPONDENT'S MOTION TO
DISMISS, AND REFERRING MATTER
BACK TO MAGISTRATE JUDGE

(Docs. 13, 19)

Anthony James Myers, represented by counsel, is a state prisoner proceeding with a petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 12, 2023, the magistrate judge issued findings and recommendations recommending that Respondent's motion to dismiss be granted in part and Petitioner be allowed to delete the unexhausted cumulative error claim and proceed with his exhausted claims. (Doc. 19.) The Court served the findings and recommendations on the parties and notified them that any objections thereto were to be filed within fourteen days after service. On July 18, 2023, Petitioner filed timely objections. (Doc. 20.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, including Petitioner's objections, the Court holds the findings and recommendation to be supported by the record and

proper analysis. Accordingly, the Court **ORDERS**:

1. The findings and recommendations issued on July 12, 2023 (Doc. 19) are **ADOPTED IN FULL**.
2. Respondent's motion to dismiss (Doc. 13) is **GRANTED IN PART**.
3. Petitioner's unexhausted cumulative error claim is **DISMISSED** without prejudice.
4. The matter is referred to the magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: **October 31, 2023**


UNITED STATES DISTRICT JUDGE